

# *Helping Working Parents*





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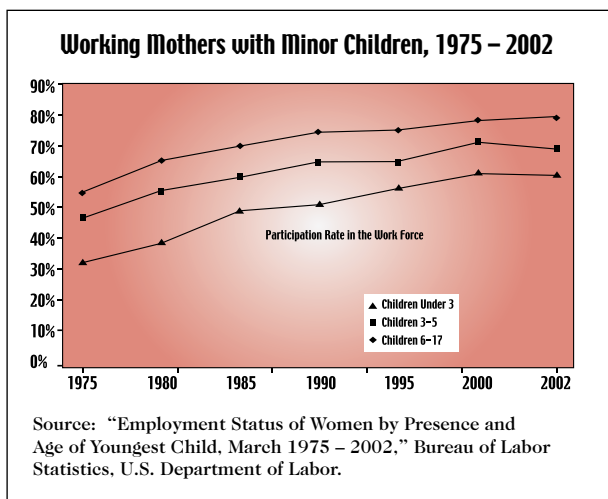
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# California Laws Helping Working Parents

The workplace has changed. In the past, most men worked outside the home and most women worked inside the home, usually raising children. Today, most women, including mothers of young children, are in the labor force. In response, California's legislators and governors have adopted a number of laws to accommodate the changing family needs of working mothers and fathers.

By 2002, according to national figures, 61 percent of women with children younger than 3 years old, 69 percent of those with children between 3 and 5, and 79 percent of those with children between 6 and 17 were in the work force. As Figure 1 shows, these percentages rose steadily until 2000, after which a slight decrease occurred.

**Figure 1**



California laws to help working parents provide:

- Job protections during pregnancy;
- Time and an appropriate place for mothers to express milk at work, with some exceptions;
- Unemployment insurance for jobs lost because of family needs;

- Tax breaks or public subsidies for child care for qualifying workers;
- Unpaid family and medical leave;
- Paid family leave;
- Time off for visiting or volunteering in a child's school; and
- Use of sick leave to care for a child, spouse, domestic partner or parent.

## *Job Protections During Pregnancy*

In most cases, having a baby can no longer cost working women their jobs. **California anti-discrimination laws protect pregnant women working for private and public employers with five or more employees.** California pregnancy-protections for employed women include:

- the right to take a doctor-certified disability leave before and/or after the baby is born,
- the right, after taking a disability leave for four months or less, to return to the same job or a comparable position,
- the right to a temporary transfer to a less strenuous or hazardous position during the pregnancy,
- the right to have workplace needs related to the pregnancy reasonably accommodated based on the advice of a health care provider, and
- the right to pregnancy-related medical coverage if medical benefits are provided.<sup>1</sup>



There are exceptions to these rights. See ***“Resources for More Information”*** at the end of this brochure to find out more about these protections.

If you work at a job where there are less than five employees and you experience job discrimination related to a pregnancy, you may be able to file a private lawsuit for pregnancy-related sex discrimination under the state constitution.<sup>2</sup>

When an expectant mother has to take time off from work for medical reasons related to pregnancy or childbirth, she usually is entitled to some kind of paid pregnancy-disability coverage. Most private sector workers are part of the state disability insurance (SDI) system but some are not. Some employers provide disability coverage through another plan and some employers provide coverage in addition to SDI coverage. Check with your company's personnel office.

SDI benefits are available to most working women who are temporarily disabled by pregnancy.<sup>3</sup> The period of coverage depends on the length of time your doctor certifies that you are disabled. Standard SDI payments for pregnant employees cover up to four weeks before birth, six weeks after a vaginal birth, or eight weeks after a cesarean birth. Eligible employees receive about 55% of their average weekly wages at the time of temporary disability, up to a maximum set by formula each year.<sup>4</sup>

See ***“Resources for More Information”*** at the end of this brochure to find out more about SDI.



You may also be eligible for a paid pregnancy-disability leave longer than the standard SDI payments outlined above, if your doctor certifies that you are disabled.

Whether your pregnancy-disability leave is paid or unpaid depends on your employer's personnel policy and whether you are covered by disability insurance. Women who work for larger employers often collect SDI during the eight to 12 weeks they are disabled by pregnancy and childbirth, and after that time has elapsed, they may take additional unpaid and paid family leave discussed below.

There is no set formula for how much time a woman will have off from work and whether that leave will be paid or unpaid. It depends on many different variables such as size of the employer, each

employer's personnel policies (which may be more generous than legally required), whether the worker is covered by SDI or some other disability-benefits plan, whether the pregnancy is difficult or more routine, and whether the employee can tap into accumulated sick leave or vacation benefits.

## *Accommodating Nursing Mothers at Work*

**W**hen a mother who is nursing her infant returns to work, employers are required to provide her with a suitable location, if there is one, and a reasonable amount of time to express milk.<sup>5</sup> Employers are exempted from the requirements of this law if the employer's operations would be seriously disrupted by providing break time to employees needing to express milk. This law is enforced by the Division of Labor Standards Enforcement in the state Department of Industrial Relations. See *“Resources for More Information”* at the end of this brochure for contact information.

## *Unemployment Insurance Related to Family Needs*

Quitting your job because your spouse is transferred to a distant location usually allows you to collect unemployment insurance (UI) benefits. Before the passage of 1976 and 1982 laws<sup>6</sup> allowing these benefits, workers who left jobs for family reasons were not eligible for UI benefits. In 2001, this right to UI benefits was extended to domestic partners who leave a job to join their partner in a new location.<sup>7</sup>

A worker might be eligible for UI benefits if he or she quits a job because of an inability to find child care. Workers must establish “good cause” by showing they have exhausted all reasonable efforts to find child care.

See *“Resources for More Information”* at the end of this brochure to find out more about UI benefits.

## Child Care Assistance

**M**any parents need child care in order to work. These parents must consider a number of factors such as quality of care, cost and location. Because the cost of child care is often a major expense, this is a very real concern for working families. The following Figure 2 provides the average costs of full-time licensed child care in California in 2002.

To help working parents find suitable care, the state licenses child-care centers and homes. It sets minimum health and safety standards for children and conducts criminal background checks on staff. The state also places educational requirements on teachers and directors at licensed day-care centers. The government helps pay for child care for the working poor and for parents who are leaving welfare to go to work. For parents who want to hire a babysitter in their own home, the state will provide a criminal background check for a fee. See “*Resources for More Information*” at the end of this brochure to find out more about child care assistance.

**Figure 2**

### Average 2002 Costs of Full-Time Care for Infants, Pre-school and School-Age Children in Licensed Care in California

AGE GROUP	WEEKLY		ANNUAL	
	CENTERS	HOMES	CENTERS	HOMES
Infant (under 2)	\$186	\$132	\$9,691	\$6,872
Preschool (2-5)	\$130	\$122	\$6,739	\$6,362
School age (over 5)	\$86	\$89	\$4,478	\$4,628

*Notes: Full-time care for school-age children is for before and after school care at 4 hours per day when school is in session plus the additional cost for child care at 8 hours per day when school is not in session.*

Source: California Child Care Resource & Referral Network, 2002 Regional Market Rate Survey.



State and federal government tax laws help working parents by offering income-tax breaks for child-care costs and by encouraging employers to make child-care benefits part of the employees' overall compensation package.

The federal and state governments give some credits on income-tax forms to help cover the costs of child care for working parents. A “credit” is the opposite of a tax. It is subtracted from the income taxes that a worker owes.



The Dependent Care Tax Credit allows taxpayers who pay for the care of a child under the age of 13 to subtract a percentage of those expenses when calculating their federal and state income taxes. (This credit also may be used in certain cases by taxpayers who are paying for the care of relatives with disabilities who are unable to care for themselves.)

Another tax credit that can be used to help pay some of the costs of child care is the Earned Income Tax Credit for workers with children. This is available only on federal, not state, income-tax forms. As of July 2004, you could qualify for this credit if you had one child and were earning less than \$29,666 (or \$30,666 for married couples filing jointly). If you had more than one child, you would have to earn less than \$33,692 (or \$34,692 for married couples filing jointly). To adjust for inflation, these amounts increase each year. See ***“Resources for More Information”*** at the end of this brochure to find out more about the Earned Income Tax Credit.

State and federal tax laws allow employers to offer employees a “cafeteria” plan for child care expenses. This allows employees to have money taken from their paychecks for qualified child-care costs without paying taxes on that income. In 2004 a worker with a “cafeteria” plan could avoid paying taxes on up to \$5,000 per year if that money were used for qualified child-care services. California workers are allowed to combine this approach with the Dependent Care Tax Credit to save a maximum amount of taxes. Contact your company personnel office for more information on this and other child-care benefits that maybe offered by your employer.

## *Unpaid Family and Medical Leave*

**T**he California Family Rights Act makes unpaid family and medical leave available to either parent to care for a newborn, newly adopted child or foster child. It also is available for a serious health condition affecting you, your child, your spouse or your parent. If your employer pays for a share of your health benefits, your employer must continue to make those payments while you are taking an unpaid leave. As of January 1, 2005, registered domestic partners are covered by this law.<sup>8</sup>

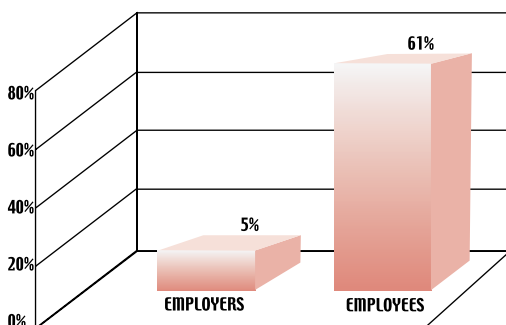
The California Family Rights Act requires private and public employers with **50 or more** employees within a 75-mile radius to grant an unpaid family leave of up to 12 weeks annually to eligible employees.<sup>9</sup> Although the law affects a small percentage of California’s employers (5 percent), a sizable percentage of California’s workers are affected (61 percent) because most employees in the state work for employers with over 50 employees (see Figure 3).



To be eligible to take the leave you must have worked for your employer for a least a year and you

**Figure 3**

**Percentage of Employers and Employees Affected by California's Family-Leave Law**



Source: CA EDD, Labor Market Information Division, The Quarterly Census of Employment and Wages 3<sup>rd</sup>, Quarter 2002.

must have worked at least 1,250 hours during the year before the leave. The state Department of Fair Employment and Housing has a helpful brochure entitled the “California Family Rights Act” that answers the most frequently asked questions regarding California’s law. See ***“Resources for More Information”*** at the end of this brochure to find out more about family and medical leave.

Many employers have family-leave policies that are more flexible than the requirements outlined here. You’ll need to check your company’s personnel policies.

Many workers confuse pregnancy-disability leave, unpaid family and medical leave, and paid family leave. They are three separate laws with different requirements and benefits. However, many employees are eligible to combine these leaves after the birth of a child.

For specific questions about how these laws work together, call the toll-free telephone numbers or visit the websites for the California Department of Fair Employment and Housing and the California Employment Development Department listed in ***“Resources for More Information.”***

Family leave is also available for a **serious health condition** affecting you, your child, your spouse or registered domestic partner, or your parent.



A serious health condition is an illness, injury, impairment or physical or mental condition that involves some kind of institutional care or continuing treatment by a health-care provider. Increasingly, workers are using family leave to help take care of elderly parents. In 2002, according to a national study by the Families and

Work Institute, 35 percent of both male and female workers provided regular care for an elderly parent or in-law.<sup>10</sup>

## ***Paid Family Leave***

California was the first state in the nation to provide paid family-leave benefits. Since July 2004, all workers covered by the State Disability Insurance (SDI) system are eligible to collect a portion of their wages for time off from work to bond with a newborn or a newly adopted child, or to care for a seriously ill family member, including a domestic partner.<sup>11</sup> Paid family leave to bond with a child is available to mothers, fathers and domestic partners.

Paid family leave is limited to a maximum of six weeks in a 12-month period. Leave may be taken in daily or weekly increments. Workers can collect about 55 percent of their wages up to a maximum weekly benefit amount set yearly by formula (\$728 a week in 2004). Employers can require a worker to first use up to two weeks of earned vacation prior to tapping into paid family leave.

There is a seven-day waiting period before you can collect paid family leave. If your employer requires that you first use up vacation time, this waiting period can run at the same time. Paid family leave may start as soon as you have recovered from the birth of your child and have stopped receiving pregnancy-related SDI benefits. There is no additional seven-day waiting period when SDI for family leave follows the SDI pregnancy-related claim.

Most private employees are covered by SDI. Some state and local government employees are part of the SDI system, but the majority of public employees are covered by a different plan and are not eligible for paid leave under this law. Some of these public employees have similar benefits under their employers' personnel policies.

Workers who take a paid family leave have no guarantee they will get their jobs back when the leave is over. On the other hand, the California Family Rights Act that permits an unpaid family or medical leave does provide job security for those who are eligible to take advantage of it. These workers must receive their old jobs back, or be given similar jobs, if they take an unpaid leave.

According to the Employment Development Department, if the California Family Rights Act applies to your company, then you must take your unpaid family and medical leave and your paid family leave at the same time. By taking these two leaves at the same time, your right to return to your job is protected. If you want to take a paid family leave and you are not able to take advantage of the job protections in the California Family Rights Act, you should check with your personnel office about whether you can return to your same job.

Paid family-leave claims are filed with the state Employment Development Department. See ***“Resources for More Information”*** at the end of this brochure to find out more about paid family-leave benefits.

## *Time Off to Visit or Volunteer in Your Child's School*

Working parents often have a hard time attending their children's school functions during their working hours. Yet research shows there is a strong connection between a parent's involvement with a child's education and the child's performance in school. A little-known California law allows parents, grandparents and guardians who work for employers with 25 or



more employees to take up to 40 hours of time off from work each year, but no more than 8 hours per month, to participate in school and licensed day care activities.<sup>10</sup> Figure 4 shows the percentage of employers with 25 or more employees (9 percent) and the percentage of

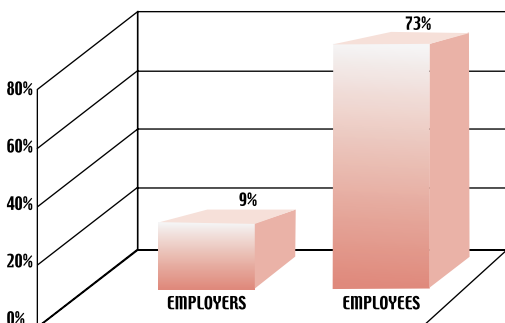
California's workforce that work for employers with 25 or more employees (73 percent).

To take advantage of this law, a parent, guardian or grandparent with custody must give reasonable notice to the employer. Employees must first use vacation, personal leave or compensatory time off for this purpose, or may take unpaid time off, if the employer allows that.

An employee who is eligible for this time off but who is dismissed or discriminated against for trying to use it should contact a local office of the California Department of Industrial Relations, Division of Labor Standards Enforcement, and file a complaint within six months.<sup>13</sup> See ***“Resources for More Information”*** at the end of this brochure for contact information.

**Figure 4**

**Percentage of Employers and Employees Affected by California's School-Leave Law**



Source: CA EDD, Labor Market Information Division, The Quarterly Census of Employment and Wages, 3<sup>rd</sup> Quarter, 2002.

## *Using Your Sick-Leave Benefits to Care for a Child, Spouse, Domestic Partner or Parent*

**A** 2001 national survey found that half of working mothers and nearly one-third of working fathers miss work to care for a sick child.<sup>14</sup> Before the passage of California's sick-leave law, working parents might have felt it necessary to falsely claim a sick day for themselves to stay home with a sick child. The 2001 law requires all private and public employers who offer paid sick leave to allow workers to use a portion of that sick leave to care for an ill spouse, domestic partner, parent or child.<sup>15</sup> The general rule is the worker can use one-half of employer-provided sick leave for the care of family members. For example, if the employer provides an employee with 12 days of paid sick leave each year, the employee could use up to six days each calendar year for family members.

This "sick-leave" law usually will cover short-term illnesses of family members, not long-term serious health conditions. Workers who are covered by

the California Family Rights Act are eligible to take time off for serious health conditions of family members. An unpaid family and medical leave cannot be extended by use of this sick-leave time.

The Division of  
Labor Standards  
Enforcement

in the state  
Department  
of Industrial

Relations, enforces this sick-leave law.



See “*Resources for More Information*” at the end of this brochure for contact information.

## *Conclusion*

Most working parents face a daily time crunch balancing the needs of their families and the demands of their jobs. Recognizing these competing demands, California lawmakers have changed the laws to accommodate a changing workforce. I hope you have found this brochure helpful in understanding the variety of laws designed to help working parents.



## Resources For More Information

**Job Protections During Pregnancy:** California Department of Fair Employment and Housing, 1-800-884-1684 or [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

**Accommodating Nursing Mothers:** consult the white pages of your telephone directory for the nearest Division of Labor Standards Enforcement office under CALIFORNIA, State of, Industrial Relations, Labor Standards Enforcement.

**State Disability Insurance for Pregnancy and Childbirth:** consult the white pages of your telephone directory for the nearest state Employment Development Department office under CALIFORNIA, State of, Employment Development Department, Disability Insurance Office.

**Unemployment Insurance:** consult the nearest state Employment Development Department office noted above.

**Child Care:** call 1-800-543-7793 to connect with your local child care resource and referral office.

**Federal Earned Income Tax Credit:** IRS Publication 596, Earned Income Credit. This publication is available at [www.irs.ustreas.gov](http://www.irs.ustreas.gov) or by calling 1-800-829-3676.

**Unpaid Family and Medical Leave:** California Department of Fair Employment and Housing, 1-800-884-1684 or [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

**Paid Family Leave:** California Employment Development Department, 1-877-238-4373 or [www.edd.ca.gov](http://www.edd.ca.gov).

**Time off to Volunteer in Your Child's School:** consult the nearest Division of Labor Standards Enforcement office noted above.

**Using Sick Leave Benefits for Dependent Care:** consult the nearest Division of Labor Standards Enforcement office noted above.

## End Notes

- 1.** AB 1960 (Berman), Ch. 1321, 1978 added pregnancy, childbirth and related medical conditions to the Fair Employment and Housing Act (FEHA), Government Code section 12945. Recently amended by AB 1670, (Kuehl) Ch 591, 1999.
- 2.** See *Badih v. Meyers*, 36 Cal. App. 4<sup>th</sup> 1289 (1995).
- 3.** AB 809 (Deddeh), Ch. 1026, 1973 and SB 652 (Moscone), Ch. 1163, 1973 extended disability benefits to cover complications due to pregnancy; AB 3881 (Fazio), Ch. 1182, 1976 extended disability benefits to routine pregnancies and childbirth.
- 4.** SB 656 (Solis), Ch. 973, 1999 created a formula to raise the maximum weekly benefits each year. The 2004 maximum is \$728.
- 5.** AB 1025 (Frommer), Ch.821, 2001 Labor Code sections 1030 – 1033.
- 6.** SB 848 (Rains), Ch. 1169, 1976 and AB 2901 (Martinez), Ch. 1073, 1982.
- 7.** AB 25 (Migden), Ch. 893, 2001 Unemployment Insurance Code sections 1030, 1032 and 1056.
- 8.** AB 205 (Goldberg), Ch. 421, 2003, Family Code section 297.5 Court challenge pending in Sacramento superior court, August 2004.
- 9.** AB 77 (Moore), Ch. 463, 1991 and AB 1460 (Moore), Ch. 827, 1993, Government Code sections 12945.1 and 12945.2.
- 10.** *Highlights of the 2002 National Study of the Changing Workforce*, Families and Work Institute, September 2003. Note: A worker may not take time off to care for an in-law under California's unpaid and paid family-leave laws.

- 11.** SB 1661 (Kuehl), Ch. 901, 2002 and SB 727 (Kuehl), Ch. 797, 2003. Key provisions are Unemployment Insurance Code sections 3300-3305.
- 12.** AB 2590 (Eastin), Ch. 1290, 1994 and AB 47 (Murray), Ch. 157, 1997 Labor Code section 230.8.
- 13.** AB 1127 (Steinberg), Ch. 615, 1999 Labor Code section 98.7. See also Labor Code sections 2699, 2699.3 and 2699.5.
- 14.** *Women, Work, and Family Health: A Balancing Act*, April 2003, data from the 2001 Kaiser Women's Health Survey, Henry J. Kaiser Family Foundation.
- 15.** AB 109 (Knox), Ch. 164, 1999 AB 25 (Migden), Ch. 893, 2001 Labor Code section 233; SB 1471 (Romero), Ch. 1107, 2002, Labor Code section 234.

# *Compliments of*



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